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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of : George Domenic et al.  
 Serial Number : 09/740,554  
 Filed : December 20, 2000  
 For : VERTICALLY ADJUSTABLE  
 POST HEIGHT ADJUSTMENT  
 MEANS AND SHELF RETAIN-  
 ING ELEMENT



**RESPONSE TO TELEPHONE INQUIRY**

Box SN  
 Assistant Commissioner for Patents  
 Washington, DC 20231

Sir:

The undersigned has just learned that a Petition to Make Special the above-reference application has been granted for US Pat. Appln. Ser. No. 09/640,052, a parent case, by mistake. A copy of the Decision on Petition is attached. The undersigned noticed this problem when reviewing the file of Appn. Ser. No. 09/740,554. Upon this discovery, the undersigned contacted Mr. Randolph A. Reese, the Special Programs Examiner who wrote the Decision on Petition, who acknowledged that a mistake had been made. Upon investigation Mr. Reese advised that Appln. Ser. No. 09/740,554 was presently in the pre-examination processing area and that he did not know when it might get to the assigned examiner.

The undersigned then called the Examiner for Appln. Ser. No. 09/640,052, the case on which the Decision on Petition was granted, to determine if Appln. Ser. No. 09/740,554 had been assigned to him or if he knew

of its whereabouts. He had not seen the case but did give the undersigned a telephone number for the pre-examination processing area. The undersign called that number and eventually connected with Ms. Marsha Robinson.

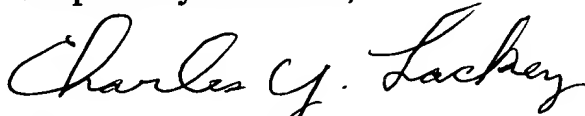
Ms. Robinson advised the undersigned that the case was subject to a Notice to File Missing Parts action and was being held until a response to that action was received. The undersigned has not received the Notice to File Missing Parts action and asked if the action could be faxed to him. Ms. Robinson stated that this could not be done, and that another mailing of the action would have to be made after she received the file. No copy of the action or any other document regarding Appln. Ser. No. 09/740,554 has been received by the undersigned. This filing has been prepared and made even though there is no requirement to respond to in writing simply to try get the Petition to Make Special to be applied to the correct case.

In preparing this paper, the undersigned thoroughly reviewed his file on this case and noted some irregularity with the informal drawings. New drawings like those previously submitted are enclosed herewith. Some of these drawings were made from the from the same discs used for the previously filed drawings. While these disc-made drawings are photographs, actual patent drawings will be made from them when the case is allowed.

The undersigned reviewed the fees submitted and found that the basic filing fee provided upon filing was incorrect and that an additional fee of ten dollars (\$10.00) was needed. A check in the amount of seventy five dollars (\$75.00) is enclosed which includes the balance of the filing fee due and the surcharge of sixty five dollars (\$65.00) under 37 CFR 1.16(e) and 37 CFR 1.9(f).

The undersigned respectfully requests that this Appln. Ser. No. 09/740,554 immediately be sent to the proper examiner as quickly as possible. Infringement by at least two (2) third parties is taking place to Applicants' detriment. Mr. Reese [(703) 308-2121] and Ms. Robinson [(703) 308-1202] can verify the facts set forth herein. Immediate action is urged.

Respectfully submitted,



Charles Y. Lackey  
(336) 659-82149  
PO Box 5871  
Winston-Salem, NC 27113-5871

Date: June 13, 2001



## UNITED STATES PATENT & TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL  
PROPERTY AND DIRECTOR OF THE UNITED STATES  
PATENT AND TRADEMARK OFFICE  
Washington, D.C. 20231

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MAR 26 2001

Office of the Director  
Group 3600

Charles Y. Lackey  
P.O. Box 5871  
Winston-Salem, NC 27113

Paper No. 4

In re application of	:	<b>DECISION ON PETITION</b>
Georg Domenig	:	<b>TO MAKE SPECIAL</b>
Application No. 09/640,052	:	<b>(INFRINGEMENT)</b>
Filed: August 17, 2000		
For: VERTICALLY ADJUSTABLE POST		
HEIGHT ADJUSTMENT MEANS AND		
A SHELF RETAINING ELEMENT		

This is a decision on the petition under 37 C.F.R. § 1.102(d) filed February 23, 2001 to make the above-identified application special.

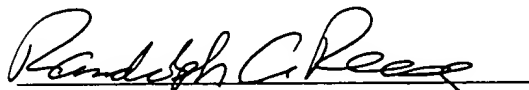
The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed February 23, 2001 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

A handwritten signature in cursive script, reading "Randolph A. Reese", is written over a horizontal line.

Randolph A. Reese  
Special Programs Examiner  
Technology Center 3600  
(703)308-2121